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**International Law Association Committee on Cultural Heritage: Helsinki,  
12–17 August 1996**

Siehr, Kurt

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International Law Association Committee on  
Cultural Heritage  
Helsinki, 12–17 August 1996

Kurt Siehr\*

In August 1996, the 67th Conference of the International Law Association (ILA) took place in Helsinki. The work of the ILA is done through more than twenty committees which focus on particular problems of international importance. These committees are composed of delegates from national branches of the ILA and committee members meet regularly, but at least every second year at the ILA Conferences.

The Committee on Cultural Heritage has been very active. In 1994, at the 66th ILA Conference in Buenos Aires, the Convention on the Protection of the Underwater Cultural Heritage was adopted and forwarded to UNESCO for consideration.<sup>1</sup>

In Helsinki, the Committee on Cultural Heritage, under the chairmanship of Professor James A. R. Nafziger (USA) and with Professor Robert Paterson (Canada) as rapporteur, discussed a report on “a study of the way in which international instruments for the protection of the cultural heritage originate, including a comparison of relevant instruments and an examination of the increasingly complex network of intergovernmental and non-governmental organizations involved in creating those instruments and progressively developing international law.”<sup>2</sup> The discussion led to the following draft resolution<sup>3</sup> which was adopted by the ILA plenary session on 17 August 1996:

The 67th Conference of the International Law Association held in Helsinki, Finland, 12–17 August 1996:

*Recalling* the Committee’s work program, adopted by resolution at the 66th Conference of the International Law Association in Buenos Aires;

*Noting* subsequent communication among Committee members concerning the scope of the approved project and in particular, the possibility of broadening its mandate beyond an examination of processes for drafting international instruments;

*Further noting* the Committee’s decision to focus on the work of UNESCO, UNIDROIT, the Council of Europe and other organizations with particular interest in the cultural heritage;

*Having regard* to the Committee’s First Report on Heritage Law Creation;

\* Professor of Law, University of Zürich.

*Observing* persistent weaknesses in the conventional mechanisms and their failure to resolve tensions between principles favouring retention of cultural heritage and those favouring its return or repatriation;

*Observing also* that there is a growing interest in developing alternative schemes for avoiding or resolving these tensions through a greater orientation toward sharing of cultural heritage and enhanced access to it;

*Questioning* the relative importance of organizational processes for creating international instruments, as specified in the Buenos Aires Resolution, on the one hand, and underlying substantive issues, on the other hand, in determining the development of cultural heritage law within the international system;

*Recommends* that the Committee:

- (1) study the ways in which international instruments, other mutual expectations and new practices pertaining to the cultural heritage develop within intergovernmental and non-governmental organizations;
- (2) specifically analyse the respective roles of deliberative processes and underlying substantive issues in determining the outcome of initiatives to codify and progressively develop international cultural heritage law;
- (3) explore the possibility of formulating an alternative régime based on sharing and enhanced circulation of cultural heritage, rather than on reconciling principles of retention and return;
- (4) develop a set of recommendations designed to advance consideration and understanding of a broader régime of sharing and circulation of cultural heritage; and
- (5) complete its study in time for approval by the 68th Conference of the Association in Taipei.

## Notes

- 1 Report of the Sixty-Sixth Conference held at Buenos Aires, Argentina, 14 to 20 August 1994, 15–21 (The International Law Association ed., Buenos Aires 1994), with final report and commented version of the Convention, *id.* at 432–47. *See also* Draft Convention with introduction by James A. R. Nafziger, *supra* at 119–27.
- 2 International Law Association, Helsinki Conference (1996), Cultural Heritage Law Committee (leaflet distributed in Helsinki).
- 3 Draft resolution no. 9: Cultural Heritage Law (paper prepared and distributed in Helsinki).